

AMWU Questions on Notice

Inquiry into review of the exercise of the functions of the WorkCover Authority and the Workers Compensation (Dust Diseases) Board

- Can I get you to take on notice and then come back to us with the sort of information you believe should be in those reports, unless you have something you want to say?

The below represents the last set of criteria used in the Statistical Bulletin.

SECTION 1: EMPLOYMENT INJURIES

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- Trends 1999/00 to 2008/09
- Number, incidence and frequency rates
- Gross incurred cost 1999/00-2008/09
- Employment injuries 2008/09
- Number, gross incurred cost and time lost
- Age distribution
- Industry distribution
- Occupation distribution

SECTION 2: FATALITIES

- Trends 1987/88 to 2008/09
- Number, incidence and frequency rates
- Fatality claims 2008/09
- Industry
- Occupation
- Age
- Younger workers
- Fatalities 1999/00 to 2008/09
- Workplace fatalities
- Occupational disease fatalities
- Other work-related fatalities

SECTION 3: WORKPLACE INJURIES

- Trends, 1999/00 to 2008/09
- Workplace injuries 2008/09
- Number, incidence and frequency rates
- Severity of injury
- Gross incurred cost and time lost
- Industry distribution
- Occupation distribution
- Common injuries
- Manual handling injuries
- Back injuries

SECTION 4: OCCUPATIONAL DISEASES

- Occupational disease claims 1999/00 to 2008/09
- Number, incidence and frequency rates
- Gross incurred cost and time lost (NB figures are not adjusted for inflation)

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- Occupational diseases 2008/09
- Time lost
- Nature of diseases
- Age distribution
- Occupational distribution
- Selected diseases
- Deafness
- Mental disorders
- Occupational overuse syndrome

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SECTION 5: OTHER WORK-RELATED INJURIES

- Other work-related injuries 2008/09
- Number, gross incurred cost and lost time
- Number, gross incurred cost and time lost for long-term temporary disability claims
- Number and incidence rate by age and gender
- Cause of injury
- Industry distribution
- Occupational analysis

SECTION 6: LOST TIME

- Trends 1999/00 to 2008/09
- Lost time injury/disease claims 2008/09

SECTION 7: PAYMENTS

- Trends 1999/00 to 2008/09
- Total payments 2008/09
- Proportion of total payments
- Payment type breakdown 2008/09
- Percentage change in payments since 2007/08
- Nature of injury/disease 2008/09
- Payments by industry

As well as these criteria the AMWU is recommending the following;

- Durable return to work
 - By Industry
 - By Age
 - By Occupation
 - By time away from work
- Rehabilitation referrals and costs
 - By industry
 - By Occupation
 - By Age

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- By time away from work
- Time, from date of injury
- Rehabilitation outcomes – same job/same employer; different job/same employer; similar job/new employer; different job/new employer
- Permanent impairment ratings by percentage/number of workers – e.g. less than 10%, 10-14% etc.
 - By Industry
 - By Age
 - By Occupation
- ‘Detached’ workers at three months, six months, nine months, twelve months etc.
 - By Industry
 - By Age
 - By Occupation
- Worker scheme exits - return to work, redemption, common law, work capacity review, worker withdrawal, denial of liability, exhausted statutory time or other limits, other.
 - By Industry
 - By Age
 - By Occupation
 - By time from date of injury
- Claims duration
 - Based on injury type
 - By Industry
 - By Age
 - By Occupation
- Average cost of claims
 - Based on injury type
 - By Industry
 - By Age
 - By Occupation
 - By time away from work
- Numbers of non-compliance by scheme agent or insurer
 - Reported
 - Investigated
 - Substantiated
 - Resulted in
 - i. Suspension of licence
 - ii. Cancellation of licence
 - iii. Pecuniary penalty imposed
 - iv. Amendments to terms of licence
 - v. Letter of censure
 - vi. No action taken
- Number of improvement notices issued pursuant to section 59B NSW *Workplace Injury Management and Workers Compensation Act 1998*

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- If we wanted to ask WorkCover for some sensible information to show this historically, we would want to have prosecutions, penalty notices, prohibition notices, improvement notice and this last one, advisory notices. Is there anything else we should ask for?

The compliance and enforcement measures open to WorkCover are set out in Parts 10, 11 and 13 of the Work Health and Safety Act 2011.

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They include:

- Improvement Notices
- Prohibition Notices
- Non-Disturbance Notices
- Remedial Action – when a prohibition notice has been issued and the person has not taken reasonable steps to comply
- Injunctions – to compel a person to comply with a notice or not contravene a notice
- Enforceable Undertakings – may be accepted by the Regulator and stops any proceedings been brought for the alleged contravention if accepted
- Prosecutions (criminal and civil proceedings)
 - Pecuniary penalty
 - Imprisonment
 - Adverse publicity order
 - Orders for restoration
 - Work health and safety project orders
 - Court-ordered WHS undertaking
 - Injunctions
 - Training orders
- Penalty Notice

We are recommending this should be the scope of reports being sort from WorkCover on an annual basis (and provided in the Statistical Bulletin). It should be noted these are the only compliance and enforcement tools available to Inspectors/Regulator under the Work Health and Safety Act 2011.

We have it on good advice that ‘Advisory Notices’ are no longer issued. They are now called ‘WorkCover Authority of NSW INSPECTION REPORT Work Health and Safety Act 2011’. At the bottom of each page is ‘WHS Act 2011 Inspection Report’. It is then with some surprise that we have also been informed that these notices are not issued or called up under the WHS Act (which we have confirmed) as the notice would elude and are no more than an administrative document. On this basis there is unlikely to be any value in seeking information on number of Inspection Reports issued or the nature of the Inspection Report as they are not a compliance or enforcement tool, though they are been used to replace them. This also explains why they are not enforceable.